



California Regional Water Quality Control Board

North Coast Region

William R. Massey, Chairman

Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/~rwqcb1/>
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone 1-877-721-9203 Office (707) 576-2220 FAX (707) 576-2557



Gray Davis
Governor

August 15, 2002

Attachment D

Mr. John Hanes
Hanes Ranch, Inc.
P.O. Box 528
Boonville, CA 95415

Dear Mr. Hanes:

Subject: Your letter of July 28, 2002 regarding THP 1-02-118 MEN

On July 30, 2002, Regional Water Board staff received your letter regarding their participation in the review of Timber Harvest Plan 1-02-118 MEN on the Hanes Ranch property. In your letter you assert that David Fowler and Jonathan Warmerdam of my staff "conspired with the review team to cause denial of this THP by false and misleading statements..." You also stated that "The proof of this conspiracy is the fact that your report makes no site specific recommendations."

I have reviewed the file on this matter and discussed your concerns with my staff. I find no indication whatsoever of any false or misleading statements made by either Mr. Fowler or Mr. Warmerdam. Your allegations are very serious. If you believe them to be true and wish to have them addressed, I will need more specifics than broad-brush accusations.

Regarding your allegations of conspiracy to deprive you of your rights, as noted by Mr. Fowler in the preharvest inspection report dated June 25, 2002, the purpose of the Regional Water Board staff attendance of the review team meeting and inspection was to "evaluate protection to the waters of the State from the proposed timber operations." In the report, Regional Water Board staff provide site specific observations of the conditions of the appurtenant road shown on the THP Map #7. The report also documents the observed condition of many watercourse crossings. The findings in the report indicated that the "THP does not identify all active erosion sites in the logging area, nor does it assess them to determine which sites pose significant risks to the beneficial uses of water." Based on site specific observations and review of the contents of the THP, and pursuant to the statutory authority contained in the Porter-Cologne Water Quality Control Act (California Water Code section 13000 et seq.), the Basin Plan, and the Z'Berg

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Nejedly Forest Practice Act (California Public Resources Code Section 1037.5), Regional Water Board staff recommended that the THP be denied.

As a review team member, it is the obligation of Regional Water Board staff to evaluate the potential water quality impacts from proposed THPs and to "serve in an advisory capacity to the Director in making recommendations on plans" (14 CCR 1037.59(b)). The THP review process is a public process with review team meetings open to the Registered Professional Forester (RPF), the landowner, and the public (14 CCR 1037.5(d)). It is not a process wherein agencies "conspire" to deny THPs. We also recognize that the RPF is responsible for preparing the THP and for ensuring the accuracy and completeness of its contents (14 CCR 1035.1). Regional Water Board staff, provide information on a THP that is based on protection of water quality, the resource for which this agency has responsibility. We do not, however, take on the role and responsibility of the RPF, and we therefore normally try to leave to the RPF the role of crafting responses and/or amendments to address the issues identified in our comments.

I hope and trust that this clarifies our role and helps to address your concerns.

I understand that the THP 1-02-118 MEN has been resubmitted to the California Department of Forestry as THP 1-02-175 MEN. We will review this new THP within the scope of our responsibilities and authority contained in the Porter-Cologne Water Quality Control Act, the Basin Plan, and the Z'Berg Nejedly Forest Practice Act. We are hopeful that water quality issues associated with the previous timber harvest plan will be adequately addressed in the recently submitted THP 1-02-175 MEN.

Sincerely,



Christine Wright-Shacklett
Senior Engineering Geologist

CWS:tmk\Hanesletter.doc

cc: California Department of Forestry and Fire Protection, Official THP Files for THP1-02-175 MEN and THP 1-02-118 MEN, Santa Rosa, CA
Sheryl Freeman, OCC, SWRCB

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Gray Davis
Governor

October 18, 2002

John W. Hanes, President
The Hanes Ranch Incorporated
P.O. Box 528
Boonville, CA 95415

Dear Mr. John W. Hanes:

Subject: Cleanup and Abatement and Request for Technical Reports Order No. R1-2002-0102, pursuant to California Water Code (CWC) Sections 13267 and 13304 regarding properties associated with the Hanes Ranch Incorporated, Boonville California.

Files: THP 1-02-175 MEN and THP 1-02-155 MEN.

During multiple recent inspections on the Hanes Ranch Incorporated property, North Coast Regional Water Quality Control Board (Regional Water Board) staff have identified extensive ongoing and/or threatened sources of sediment delivery to waters of the State in the Navarro River watershed. Erosion associated with road construction, watercourse crossing construction, road design, and inadequate erosion control, threaten to further impair the beneficial uses of the watershed.

Enclosed are Cleanup and Abatement and Request for Technical Reports Order No. R1-2002-0102. The Order contains specific provisions directing you to take actions to identify, cleanup, and abate the discharge and threatened discharge of earthen materials to waters of the State within the Navarro River watershed. The Order also requires you to implement winter period monitoring described in the Order and to submit monthly monitoring reports. As a part of the monitoring requirements, you are obliged to notify Regional Water Board staff of the day of each monthly inspection. Please provide notification to Christine Wright-Shacklett of my staff at (707) 576-2686, prior to conducting the monthly inspection, to allow for staff attendance.

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Also enclosed is a copy of the appeal process. If you choose to appeal the Order, you must comply with the terms of the Order while your appeal is being considered.

If you have any questions, please call Christine Wright-Shacklett of my staff at (707) 576-2686.

Sincerely,

Susan A. Warner
Executive Officer

CWS:tmk\

Certified Return Receipt

Enclosure:

1. Cleanup and Abatement Order No. R1-2002-0102
with Exhibits
2. Appeals Procedures

cc: Mr. Mike McKay, California Department of Forestry (CDF), 17501 North Highway 101, Willits, CA 95490
Mr. Jim Purcell, CDF, California Department of Forestry (CDF), 17501 North Highway 101, Willits, CA 95490
Mr. Thomas Engelhardt, Department of Fish and Game, 2550 North State Street, Ukiah, CA 95482
Mr. Michael Huyette, California Geologic Survey (CGS), 135 Ridgeway Avenue, Santa Rosa, CA 95401
Mr. David Longstreth, (CGS), 17501 North Highway 101, Willits, CA 95490
Mr. Ken Wood, Registered Professional Forester, 1021 Lake Mendocino Drive, Ukiah, CA 95482
Sheryl Freeman, Eric Spiess, SWRCB, OCC

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Gray Davis
Governor

November 7, 2002

Mr. John Hanes
Hanes Ranch, Inc.
P.O. Box 528
Booneville, CA 95415

Dear Mr. Hanes:

Subject: Cleanup and Abatement and Request for Technical Reports Order No. R1-2202-0102
File: Hanes Ranch, Inc., Booneville, CA

On November 1, 2002, I received your letter regarding Order No. R1-2202-0102 (hereinafter, Order). You raise several issues in your letter that concern the timing for conduct of the short-term emergency erosion control work, the clarity of the requirements of the Order, and the manner by which to comply with the requirements.

Regional Water Board staff attended multiple inspections on the Hanes Ranch property during the review of timber harvest plans (THPs) 1-02-118 MEN, THP 1-02-175 MEN and THP 1-02-155 MEN. As you correctly indicated, Regional Water Board staff first became aware of the erosion sites on your property during the initial inspection of THP 1-02-118 MEN on June 10, 2002. During the multiple THP inspections from June 10, 2002 to September 16, 2002, Regional Water Board staff communicated with you and your representative, Mr. Ken Wood (RPF for the above-mentioned THPs) verbally and in writing that there were numerous active erosion sites on the property that represented violations or threatened violations of the Water Quality Control Plan for the North Coast Region (Basin Plan). Staff discussed the need for a comprehensive erosion control plan to adequately address the many active erosion sites and sediment discharges to watercourses. Regional Water Board staff presented a written report of the inspection of THP 1-02-118 MEN to the California Department of Forestry (CDF) and the RPF on June 25, 2002. As you are aware, THP 1-02-118 MEN was withdrawn by the RPF from the CDF permitting process on July 3, 2002. A THP, which covered the same area as THP 1-02-118 MEN, was re-submitted to CDF as THP 1-02-175 MEN on July 12, 2002. THP 1-02-155 MEN was submitted to CDF in July of 2002 and withdrawn by the RPF on August 2, 2002. Unfortunately, mitigation of erosion sites on the property was not performed during the summer period, nor was an adequate erosion control plan provided with the submittal of THP 1-02-175 MEN. On October 11, 2002, the CDF inspection report recommended denial of THP 1-02-175 MEN.

The Order was subsequently sent to you on October 18, 2002. It appears that you received the Order on October 25, 2002. In recognition of the on-set of the rainy season and serious concerns for on-going discharges, November 8, 2002 was specified in the Order for implementation of short-term emergency erosion control measures (short-term measures). Your letter is not clear whether you intended to request a time extension for implementation of the short-term measures, and if so, until

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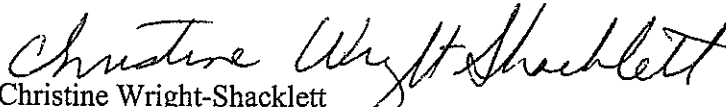
what date. It is also not clear from your letter what efforts have been undertaken to implement the short-term measures. Any requests for time extensions need to be submitted to the Executive Officer of the Regional Water Board. The extension request must include justification for the delay and a description of the good faith effort performed to achieve compliance with the Order.

Also, your letter raises concerns for the specificity of the Order to identify the erosion sites. The Order states that these erosion sites are identified in the Exhibits 2 and 3. The list of attachments on page 9 of the Order clearly describe Exhibit 2:Regional Water Board Inspection Memorandum for THP 1-02-175 MEN and Exhibit3:Regional Water Board Inspection Memorandum for THP 1-02-155 MEN. These Exhibits were attached to the Order. The inspection memorandums identify erosion sites using designations which correspond to the same numbering system used by your RPF in the THP 1-02-175 MEN and THP 1-02-155 MEN. Maps accompany each of these inspection memorandums showing erosion points sited, again using the same numbering system used by your RPF. This effort was made to ensure clarity and facilitate cross-referencing between the THPs and the Order.

With regards to providing you the specific remedial measures to address erosion sites, the Order describes a number of examples of commonly used mitigation measures that can be readily implemented. Under Item No.1, Short-Term Emergency Erosion Control, it states "The short-term emergency erosion control measures may include, but are not limited to, such measures as: unplugging culverts, seeding and mulching bare exposed soils near crossings, use of applicable materials (such as straw wattles or rock armored ditches, etc.) within ditches to minimize sediment delivery to watercourses, placement of energy dissipaters and/or downspouts to prevent erosion of fill material and/or watercourse bed and bank, removal of perched earthen materials to a stable location, installation of additional drainage facilities, and other management practices and control techniques determined to be at least equally effective at preventing discharges." The Regional Water Board does not prescribe the exact manner and method to cleanup and abate a discharge or threatened discharge. It is the responsibility of the landowner (discharger) to select and implement effective site-specific cleanup and abatement actions.

I trust that this clarifies the issues you raised in your letter and I would like to remind you that you remain obliged to comply with the requirements of the Order. We look forward to your cooperation in this matter. You may contact me at (707) 576-2220, if you have any further questions.

Sincerely,


Christine Wright-Shacklett
Senior Engineering Geologist

CWS:clh/Hanesletter11-6-02

Cc: Sheryl Freeman, OCC
Susan Warner, Regional Water Board

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Gray Davis
Governor

February 11, 2003

Mr. John W. Hanes, President
Hanes Ranch, Inc.
P.O. Box 528
Boonville, CA 95415

Dear Mr. Hanes:

Subject: Status of Compliance with Cleanup and Abatement and Request for Technical Reports Order No. R1-2002-0102 Issued pursuant to California Water Code Sections 13304 and 13267.

File: Hanes Ranch, Inc., THP 1-02-155 and THP 1-02-175, Navarro Watershed

On October 18, 2002, you were issued Cleanup and Abatement and Request for Technical Reports Order No. R1-2002-0102 (the Order), pursuant to California Water Code (CWC) Sections 13304 and 13267 regarding properties associated with the Hanes Ranch Inc., Boonville, California. The Order contained several specific requirements including short-term emergency mitigation measures, a Short-Term Erosion Control Completion Report, inspections, monthly monitoring reports, and a Long-Term Erosion Control Plan.

Specifically, Item No. 4 of the Order states:

4. By **November 15, 2002**, submit a Short-Term Erosion Control Completion Report (STCR) to the Regional Water Board Executive Officer. The STCR shall fully document the implementation of specific short-term erosion control measures, describe the specific locations of those measures, and identify the locations on a USGS topographic map at a scale of not less than one inch to the mile. The STCR shall be prepared and signed by a professional engineer or geologist licensed in the State of California and experienced in erosion control. The STCR shall include photographs, descriptions, and mapped locations of all erosion control measures that have been implemented to control sediment delivery to waters of the state from the Property.

As of the date of this letter, the STCR has not been received by the Regional Water Board Executive Officer.

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Item Nos. 5 and 6 of the Order state:

5. Initial monitoring of the measures identified in the STCR shall be conducted within 24 hours of the first storm event after **November 8, 2002**, that produces one inch or more of rain within a 24-hour period. The monitoring, inspection, and reporting shall be conducted in accordance with the provisions described under Paragraph Nos. 6 and 7 below.
6. Inspections of the measures identified in the STCR shall be routinely conducted throughout the **November 2002 to May 2003** winter period under the supervision of a California licensed professional engineer or geologist experienced in erosion control. No more than one monitoring inspection needs to be conducted within any given month. The inspection shall be conducted within 24 hours of a storm event that produces one inch or more of precipitation within 48 hours. Notification of the day of each inspection shall be provided to Regional Water Board staff to allow them to attend and potentially collect water quality samples.

Storm events producing more than one inch precipitation in 48 hours occurred in November, December, and January. As of the date of this letter, notifications of inspections have not been received by Regional Water Board staff.

Item No. 7 of the Order states:

7. By the **fifteenth day of each calendar month (November through May)**, the Discharger shall submit to the Regional Water Board Executive Officer a monthly monitoring report. The monthly monitoring report shall be signed by a licensed professional experienced in erosion control and shall include the following items:
 - a) mapped locations of all short-term emergency erosion control measures;
 - b) mapped locations of any new erosion sites (such as rill and gully erosion, inside ditch erosion, watercourse diversions, fill and cutslope failures, mass wasting, culvert failures, culvert plugging, etc.) not previously documented;
 - c) photographs of newly identified erosion sites;
 - d) photographs of existing sites where additional mitigation measures are needed;
 - e) descriptions of any alteration, repair or enhancement of specific erosion control measures performed or needed;
 - f) precipitation amounts for each day of the month (as recorded in Boonville, California, and reported in the Press Democrat newspaper);
 - g) the name of the inspector; and
 - h) the date of the inspection.

As of the date of this letter, Monitoring Reports have not been received by the Regional Water Board Executive Officer for the months of November, December or January. Also, please be aware that the next monthly Monitoring Report will be due on February 15, 2003.

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Item No. 8 of the Order states:

8. By **January 15, 2003**, the Discharger shall submit a long-term erosion control plan (ECP) for review and approval by the Regional Water Board Executive Officer. The ECP shall include a sediment source inventory, a landslide investigation report, and a remediation plan as described below in Items 9-11.

As of the date of this letter, no Long-Term ECP has been received by the Regional Water Board Executive Officer.

Regional Water Board staff has attempted to contact you by telephone about this matter on several occasions, most recently on January 30, 2003. Regional Water Board Staff did speak with you in person on January 22, 2003. At that time you were reminded of the requirements of the Order, the missed monitoring report deadlines, and the need for inspections. You indicated that you believed site conditions in portions of the area covered by the Order restricted access for both monitoring and inspections. While this information may be considered by the Regional Water Board, you are still required to comply with the reporting requirements of the Order.

We did receive a "Progress Report" letter from you on November 19, 2002, but it failed to meet the requirements of the Order. Specifically, it was unclear whether the letter was meant to address Item No. 4. *Short-Term Erosion Control Completion Report* or Item No. 7. *Monthly Monitoring Reports* requirements of the Order. It did not meet the requirements for either.

On January 22, 2003, Regional Water Board staff attended a completion inspection for timber harvest plans THP 1-99-121 MEN and THP 1-98-393 MEN. Access to these THPs required traversing a portion of the roads covered under the Order. Based on Regional Water Board staff observations during field inspections last summer and fall and on January 22, 2003, a significant amount of erosion control work needs to be implemented prior to the onset of the 2003/2004 winter rains. When inspected on January 22, 2003, several erosion sites identified during the summer and fall of 2002 were observed to be actively discharging into watercourses in violation of the Water Quality Control Plan for the North Coast Region. Failure to implement short-term erosion control measures and to submit and implement an adequate Long-Term Erosion Control Plan may continue to result in soil discharges in quantities deleterious to the beneficial uses of water.

Pursuant to Section 13268 of the CWC, you may be subject to civil liabilities of up to \$1000 per day for failure to submit timely and adequate technical reports. You should also be aware that pursuant to CWC section 13350(e), when there is a discharge or threatened discharge and a cleanup and abatement order has been issued, administrative civil liabilities may be imposed in an amount up to \$5,000 for each day in which the violation occurs. You should also be aware that you may be subject to administrative civil liabilities up to \$10.00 per gallon of earthen material that is discharged to waters of the State as a result of your land management activities.

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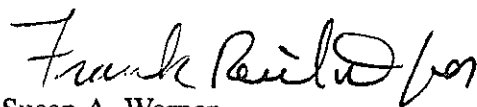


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As indicated to you by Regional Water Board staff on January 22, 2003, we still need to arrange access for an inspection of the area covered by the Order. If vehicular access is restricted due to site conditions, we can conduct the inspections either by ATV or on foot. By February 18, 2003, we request that you provide written notification granting Regional Water Board staff permission to access the property and conduct any needed inspections. We will interpret it as a denial of access if we do not hear from you by that date. If access is not granted, we will take steps pursuant to section 13267(c) of the CWC to obtain a search warrant to access your property. I urge you to allow my staff to access your property so they may work with you and your consultants or contractors to correct the erosion problems.

We look forward to your cooperation and compliance with Cleanup and Abatement Order and Request for Technical Reports No. R1-2002-0102. Please contact David Fowler at (707) 576-2756 or Christine Wright-Shacklett at (707) 576-2686 to arrange an inspection or to answer any questions or comments regarding this matter.

Sincerely,



Susan A. Warner
Executive Officer

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Certified Return Receipt

cc: Mr. Mike McKay, California Department of Forestry (CDF), 17501 North Highway 101,
Willits, CA 95490
Mr. Jim Purcell, California Department of Forestry (CDF), 17501 North Highway 101,
Willits, CA 95490
Mr. Bill Snyder, California Department of Forestry (CDF), 135 Ridgway Avenue,
Santa Rosa, CA 95401
Mr. Thomas Engelhardt, Department of Fish and Game, 2550 North State Street,
Ukiah, CA 95482
Mr. Michael Huyette, California Geologic Survey (CGS), 135 Ridgeway Avenue,
Santa Rosa, CA 95401
Mr. David Longstreth, California Geologic Survey (CGS), 17501 North Highway 101,
Willits, CA 95490
Sheryl Freeman, Eric Spiess, SWRCB, OCC

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Gray Davis
Governor

July 10, 2003

Mr. John W. Hanes, President
Hanes Ranch, Inc.
P.O. Box 528
Boonville, CA 95415

Dear Sirs:

Subject: Administrative Civil Liability Complaint No. R1-2003-0081

File: Hanes Ranch

I have enclosed Administrative Civil Liability Complaint (Complaint) No. R1-2003-0081 to Hanes Ranch, Inc. and Mr. John Hanes, President of Hanes Ranch, Inc. The Complaint proposes the imposition of civil liabilities in the amount of \$100,000 for violations of Cleanup and Abatement and Request for Technical Reports Order (Order) No. R1-2002-0102 issued pursuant to CWC 13267 (b) and 13304 (a) on October 18, 2002.

A hearing on the Complaint has been scheduled for August 27, 2003 in Santa Rosa, at which time you will have the opportunity to address and contest the allegations in the Complaint and the imposition of the proposed civil liability. An agenda showing the time of the hearing will be mailed to you not less than 10 days before the hearing date.

You may waive the right to a hearing to contest the allegations in the Complaint and the proposed civil liability. Should you choose to do so, you must sign the enclosed waiver and return it along with the payment of \$100,000 by cashier's check or money order (made payable to "State Water Resources Control Board") no later than August 11, 2003. The waiver and payment should be sent to the California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403.

Please be aware that you remain obliged to comply with all of the provisions of Order No. R1-2002-0102, including submittal and implementation of a complete and adequate long-term erosion control plan. Any additional discharges to water of the State in violation of the Basin Plan may result in further enforcement action.

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We are available to answer any questions you may have regarding this matter. If you need assistance, please contact Christine Wright-Shacklett at (707) 576-2686 or Nathan Quarles at (707) 576-2684.

Sincerely,



Susan A. Warner
Executive Officer

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Enclosures:

1. Administrative Civil Liability Complaint No. R1-2003-0081
2. ACLC Waiver

cc: Mr. Mike McKay, California Department of Forestry (CDF), 17501 North Highway 101,
Willits, CA 95490
Mr. Jim Purcell, California Department of Forestry (CDF), 17501 North Highway 101,
Willits, CA 95490
Mr. Bill Snyder, California Department of Forestry (CDF), 135 Ridgeway Avenue,
Santa Rosa, CA 95401
Mr. Michael Huyette, California Geologic Survey (CGS), 135 Ridgeway Avenue,
Santa Rosa, CA 95401
Mr. David Longstreth, California Geologic Survey (CGS), 17501 North Highway 101,
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